II. Military Organization

701 An army, properly speaking, with cadres and hierarchies, did not exist among the Mossi.

721 In the event of war, the Tansoba or Tampsoba (war minister) notified the canton chiefs who promptly assembled with all their able-bodied men and as many horsemen as possible.

705 The villages were charged with feeding the soldiers.

III. Judicial Organization

692 693 Justice was rendered in conformity with local customs which had been handed down from generation to generation and according to local practice.

1. By village chiefs, assisted by some of the elders, for petty affairs, pilfering, and insults.

2. The canton chief, assisted by his court dignitaries and the minister, ruled on matters concerning theft, adultery, and bodily attacks, as well as on other matters.

3. The Mogho Naba took cognizance of all matters of general interest, especially with crimes of assassination and murder. In theory, he could by himself pronounce the death sentence on the [565] nakomsé [descendants of Mogho Naba]. Contrary to general belief, a [56] kombéré (canton chief) also had the power of life and 661 death over his subjects. How many individuals have been put to death merely because they were wealthy! How many village chiefs have been killed by the canton chiefs over their territories without any intervention by the Mogho Naba! The nakomsé could 565 be executed, however, only for very serious crimes, such as 684 adultery with a woman of the nobility. The guilty man was led 762 into the bush by old nakomsé; they gave him a rope with which he was expected to hang himself and thus expiate his crime.

694 Justice was free; no fee was expected or assessed. The plaintiff, 431 however, customarily presented the naba with a white or light gray rooster, accompanied by the traditional satchel containing from 200 to 1,000 cowries.

726 the end. A man appointed for the task carried this flag in the front line of battle. He was never to look back and always to walk forward, and he bore no weapons other than a bow and arrows. If he was killed, another man took his place. When a village was besieged, 727 all the spoils devolved by right to the naba, who took /24/ his choice and left the rest to his men. All able-bodied men who could still fight and who refused to become slaves were put to death; the old men were spared, and the women and children reduced to slavery. The naba became master of all the slaves taken by cavalrymen mounted on his own horses. If any disagreement arose about a capture, the naba seized the prize; if the individuals concerned managed to reach an agreement, they shared the booty amicably. Those who had seized a horse or a slave on their own initiative could keep it, but more often than not they offered part of their prize to the naba in order to avoid difficulties. The war did not end with a peace treaty. It ceased when the loot was considered sufficient. The Gourounsi and Bousansé countries thus were true granaries for the Mossi, who drew upon them according to their needs.

692 The nabas did not merely administer their lands and collect taxes; they also dispensed justice, civil and criminal. The village chief usually judged a case of first instance, but the convicted party could appeal the sentence to the canton chief and through him to the province chief, or he might even resort directly to the latter. The judges 695 were always assisted by assessors, *the village elders for the petty* nabas, the ministers for the province chiefs. Criminals were judged as promptly as possible, and the accused were subjected to imprisonment only while awaiting the arrival of witnesses. They were allowed to name their own witnesses, and these were summoned.

No questioning similar to that of our examining magistrates preceded the session. Everything took place openly, and anyone could speak up whenever he pleased. Torture was not employed to obtain incriminating confessions, but sometimes was used to unmask false witnesses. Sons were not allowed to testify in favor of their father, nor slaves and servants in favor of their master: their testimony might too easily be biased.

In case of dispute, there was no trial by ordeal nor intervention by a sorcerer. The judge did not put the witnesses under oath, but a litigant could say: "If I lie, may I fail to rise from here (that is, may I die)." If someone accused of being indebted to a recently deceased individual denied this debt, the heir could lead him to the

695 tomb and force him to drink water in which earth from the grave had been diluted. This test was greatly feared, for the Mossi believe that the deceased will come and take his revenge.

The defendant went free unless his guilt was proved by witnesses. When arguments arose about the ownership of fields, domestic animals, etc., each person concerned would give his arguments and summon his witnesses, and the judges made a decision on the basis of the discussions. If two women quarreled, their husbands were supposed to get together and reach a decision. The province chief judged disputes
692 concerning marriage. For instance, if a girl had been promised to someone and the bride price was paid in part, and then her father changed his mind and gave her to another, the disappointed suitor could appeal to the province chief, who saw to it that the payment was returned. If the defendant ran away to avoid trial, he could only be tried in absentia if witnesses deposed against him.

696 /25/ The sentence was carried out as far as possible, even in the
691 absence of the convicted party; if he returned, the trial was not re-
672 opened but he could appeal to the province chief. The family is held responsible in every case. If the sentence includes a fine, and if the convicted person's property is insufficient, the property of his relatives is seized. People are held accountable for their children's debts, and if the defendant runs away, one of his relatives is seized in his place. On the other hand, the head of the family is the absolute master and the judge of the family. He must pay his children's debts and the fines they have incurred, but he may chastise them, even put them to death, or banish and curse them, a punishment which as a rule is greatly feared. All this indicates the strength of the family ties, which we shall study in the second part of this work. The naba saw to the execution of the sentence pronounced by the court; the executive and judicial powers were vested in the same person. If anyone refused to pay his debts or to pay the inflicted penalty, he was stripped of his property. No commutation of the sentence was allowed, and the person condemned to irons or to death had to suffer the sentence himself and could not go free by paying a fine or by substituting a slave. Capital punishment was carried out in public. The province chief was entitled to grant a pardon, but, of course, he made use of this right quite rarely. A man's life counts for so little in the eyes of the Black!

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651 "Market-place dues were levied by the Dara Haba, for the sovereign's account, on the markets surrounding Ouagadougou. The Moro Naba also got the tusks of elephants and one haunch of every buffalo or koba killed by hunters.

643 651 425 "Furthermore, the right of confiscation which the sovereign could use for his own benefit without any precise rule imperatively limiting the conditions under which he could exercise it, permitted him to augment, whenever needed, the revenue derived from his usual sources.

651 "Province chiefs, in turn, had the right to demand, through the canton chiefs, whatever they needed for the support of their families and retinues. Canton chiefs held the same rights over the villages within their rule. The village chiefs themselves received from their subjects a certain number of gifts."

692 Justice was rendered as follows: /580/

1. By the family heads, aided by the family elders.
2. By the village chiefs, aided by the village elders.
3. By the canton chiefs, aided by the elders of their own quarter.
4. By the province chiefs, aided by the elders of their own quarter and by the dignitaries of their entourage.
5. By the Moro Naba, aided by his ministers and the dignitaries of his entourage.

"The respective competence /legal authority/ of those various jurisdictions," says Moulins, "were in no way clearly determined or defined. The deed and the circumstances alone were taken into account in bringing up before a certain authority a matter which the lower jurisdiction had proved unable to resolve. A matter which the family council had been unable to solve was brought before the village chief, then the canton chief, the province chief, and finally the Moro Naba.

694 "Justice was free of charge in the sense that procedural expenses were unknown, but custom demanded that a litigant should never appear before a judge empty handed. He had to offer him at least a white chicken. The outcome of a trial must often have depended on the greater or lesser generosity displayed by the respective sides."

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643 796 La, a village near Koudougou district. His eldest wife, the *Pughtiema*, appeared carrying her household utensils in order to accompany her husband. However, all the ministers, led by the Kamsaogho Naba, implored the monarch to have his horse unsaddled and to postpone the trip until the following day. Feigning anger, the Mogho Naba reluctantly agreed to remain in the capital, ordered his horse unsaddled, dismissed his wife, and re-entered the palace.[8]

173 643 796 The tradition about the origin of this ritual reveals something of the Mossi attitude toward the human frailties of their rulers. It appears that Poko, the favorite wife of Mogho Naba Waraga (ca. 1660–80), asked permission to visit her father at La, and that he refused to grant her request because of his love and admiration for her. Nevertheless, she continued to ask him for permission, and after her third request he granted her wish and sent a page and a small girl with her as chaperons. When Poko did not return to the palace on the third day, Naba Waraga sent two pages to her father's compound to fetch her, and here they discovered that she had died. Fearing the king's wrath toward persons who brought bad tidings, the pages did not report back to him but notified the ministers of Poko's death. When subsequent messengers also failed to return, the king decided to go to La. The following day, after the morning ceremonies, he ordered his horse saddled and commanded the Pughtiema to get ready to accompany him on his journey. But the ministers, anxious to protect him from grief, told him that a great king never followed a mere woman under any circumstances and persuaded him not to depart. The monarch went back into the palace, and the dignitaries ordered the horse unsaddled and sent it away. Shortly afterwards, the king changed his mind and decided to go to La, but he was beseeched not to do so. He swore that he would leave the following morning, and that if he were prevented from doing so, he would advise all his descendants to try to go to La every morning until one of them succeeded.[9]

643 644 692 576 [431] At the end of this ceremony, a page gave the ministers an ample supply of beer and kola nuts. The Moslems were given presents of kola nuts and millet water (*zom kom*) sweetened with honey, since they were forbidden to drink millet beer. Later in the morning, the Mogho Naba left the palace and entered the zongo, where he greeted his visitors, accepted gifts from visiting chiefs and subjects, dispensed gifts in turn, and presided over the court of justice. Anyone who went to see the ruler had to be accompanied by his provincial minister or his host—regardless of whether it was his purpose to pay a courtesy visit, to pledge allegiance, to plead for aid, or to give testimony in a lawsuit. Pages moved back and forth between the palace and the courtyard, dispensing kola nuts and beer or millet water prepared

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by the sovereign's wives. Other pages waited upon the monarch, and accompanied him when he moved about the courtyard. When the ruler drank any liquid, the pages rubbed the palm of one hand with the fingers of the other; when he sneezed, everyone clapped; and when he stepped out to urinate, a page accompanied him, turned his back to him, knelt down, and saluted by rubbing his palm.

When the Mogho Naba had finished his morning audiences, he entered his palace for a solitary meal. This meal was prepared by one of his young wives, who tasted it in his presence before giving it to the page who served him.[10] After eating, the monarch rested for a few hours; then he emerged into the courtyard to grant audiences and hear court cases until sunset. At that time he retired to his palace, and those courtiers who were not connected with the evening ceremonies returned to their homes.

The ceremony that closed the day at the monarch's court was called "Kwaga Basgha" (literally, "final meal"). This ceremony still survives. As soon as the sun began to set, the samande-kamba took their heavy batons and stood guard to prevent unauthorized persons from coming near the *namtibo* (royal amulets). The Baloum Naba and the Bendere Naba entered the palace courtyard and knelt before the zongo. The chief page then brought out the *kwaga*, a pottery vessel containing a fire ritually associated with the namtibo.[11] The vessel was placed on the ground, and the page blew on the fire to make it burn brightly. Meanwhile, the Bendere Naba rubbed his fingers across his drum to make the growl of a lion. When the fire finally died out, the Zusoaba Kasanga and the Baloum Naba closed the ceremony by rising, coming together, and saluting the namtibo in the traditional Mossi manner. (The Mogho Naba did not attend this ceremony.) Before the officials left for the night, the pages gave them pots of beer prepared by the royal wives. Sometimes these officials visited the Mogho Naba before they retired to their compounds. Once these men had departed, the pages served the ruler his evening meal, which again had been prepared by one of his young wives.

During the hours of darkness the Mogho Naba conducted many secret affairs of state and conversed with the members of his household. Persons seeking the nam of a deceased relative were often granted audience at night, as were litigants in court cases. When there were no pressing matters of state, the ruler gathered some of the royal wives around him and discussed family affairs, which protocol forbade him to discuss during the day. Some rulers reportedly disguised themselves and visited the wards of the town in the company of a young man from the palace, in an effort to learn things that did not ordinarily come to a ruler's attention.

The Mogho Naba slept in a grass hut in the palace compound. Two

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V

LAW AND THE JUDICIAL PROCESS

671 The Mossi possessed a comprehensive body of rules governing human conduct. These rules were well known to the people, and violators were punished by the responsible authorities. The Mossi might be said to have had substantive law, but they had no written codes. Nevertheless, the lack of written codes does not warrant Mangin's blanket criticism of Mossi judicial processes: "Of course, there was no written code, no formal scale of penalties. Everything depended on custom and on the whim of the judge. [662] Thus, the wealthy could obtain sentences in their favor by paying the judges, and thieves could avoid punishment by sharing their loot with the Naba."[1] Custom did dictate the penalties, just as "written custom" dictates penalties [692] in all written legal codes. But, as we shall see, the Mossi did have a known [695] scale of penalties. Moreover, a Mossi judge had to be careful in rendering judgment, because his decisions could be reviewed by a higher court.

596 681 The head of the Mossi extended family, the *Yirisoba,* was responsible for the everyday conduct of his charges. It was his duty to settle all family quarrels, and to punish persons guilty of theft within the compound, disrespect toward elders, and incest. Punishment for the lesser wrongs included 596 683 684 reprimands and floggings. A person found guilty of disrespect to the elders or of incest could be banished from the group. But banishment was so severe that it was imposed only if the criminal refused to make the usual conciliatory gestures and was condemned by all the members of his boodoo. Even after this condemnation, however, he could ask a "sister's son," a yagenga, [613] to intercede for him. This man, the son of a female lineage member, had many privileges within his mother's brother's lineage, including the right to mediate between an exile and his boodoo.

593 586 613 Amicable relations within the family group were most often disrupted by conjugal difficulties. A Mossi husband could occasionally flog an erring wife, but he was not allowed to maltreat her. When a man became disgusted with his wife and wished to repudiate her, he put her water pots in the compound yard. This rather serious action often led to hostile relations

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between the lineages concerned. If either the repudiated woman or a member of her husband's lineage wished to initiate a reconciliation, she or he had to summon a yagenga. He alone was permitted to reconcile the couple after the pots had been placed in the courtyard. When a woman felt that she was being maltreated by her husband, she usually fled to her own patrilineage and waited for her husband's patrilineage—usually his brothers—to visit her male relatives and discuss the case. If the woman was judged guilty, she was reprimanded and sometimes flogged by her own relatives for causing trouble between the two lineages, and then sent home to her husband. However, if the man was found guilty, his wife was returned to him, but he was warned that he would forfeit all rights to her if he maltreated her again. A man who lost his wife through repeated maltreatment could not take the matter to court, because chiefs usually refused to deal with purely domestic issues. His only recourse was to induce one of his lineage brothers to recall a daughter who had married into his wife's lineage. This act was usually sufficient to bring about the reconciliation of the estranged couple before innocent persons were hurt.

The Mossi made every effort to solve minor problems without recourse to the chiefs. The local Boodkasemdamba and lineage elders adjudicated quarrels and simple offenses involving members of minimal segments in the various village saghse. They even tried to resolve difficulties between lineage members of larger segments who lived in different villages. The elders often imposed punishments such as reprimands, floggings, and even banishment. The convicted person did not usually appeal to the chief, because he knew that the chief would advise him to settle his problem within the family.

Unrelated villagers also tried to settle difficulties among themselves without appealing to the chief. For example, a man who was caught stealing could be beaten or even killed by his intended victims, and the chief did not punish them for their action. In many cases, villagers simply took the thief back to his relatives, knowing they would punish him. Occasionally, a family disgraced by a thieving member forced him to kill himself. When this happened the chief held an inquest but took no other action.

The Mossi gave a fairly simple explanation for returning a thief to his relatives for punishment. They said that every family had "weak" members, and that by not harming the captured thief they were only protecting themselves against retaliation if one of their own relatives should commit a similar crime. But a more important reason seems to have been their fear of starting a feud that might result in the premeditated murder of a man and the subsequent execution of his murderer.

The one crime that invoked terrible unofficial sanctions was rape. If the

offender was caught in the act, he was immediately killed. If he was merely suspected of guilt both by his own lineage and by the lineage of the wronged woman, he was banished from his lineage and from the village. So swift and sure was this punishment that a rapist always fled if he believed he would be discovered. The Mossi considered rape such a heinous crime that if the act resulted in pregnancy, an abortion was attempted; if this failed, the child was killed at birth. Furthermore, the rapist could never hope to return to his community, because even if the yagenga appealed on his behalf and his lineage forgave him, the community ban still stood.[2]

The village chief was usually aware of the torts and crimes that occurred in his village, and of how the families concerned had handled them. He seldom interfered in the internal affairs of a lineage, or in problems between lineages, unless he felt that a case was beyond their legal competence. In the case of a rapist's expulsion, community feeling usually ran so high that if the chief intervened, it was only to support the will of the community. However, when people could not settle their differences peaceably or when a major crime was committed within a village, the chief usually summoned the offender to his court for trial. His right to do so was sanctioned by his possession of the nam, but the very concept of the nam often made his task difficult. If he was a commoner, the nobles often emphasized their relationship to the holder of the royal nam, the district chief, and objected to being tried by a commoner. They usually appeared at the village court if summoned, but often attempted afterward to find some excuse for taking their case to the district chief. They felt that their local reputation would prevent them from receiving a fair hearing from anyone but their lineage brother. Furthermore, if they were judged and convicted in the lower court and the verdict was confirmed in the district court, they felt that the district chief, in concurring with the village chief, had broken the solidarity of their lineage. But if they took their case directly to the district chief, they knew they were being judged by an equal or a superior, and that an unfavorable judgment would not damage their status.

The competence of the village chief to deal with court cases was limited.[3] He did pass on all the legal infractions that occurred in his village, but he tried to adjudicate only the minor cases. Thus, he tried cases involving theft, quarrels, trespassing, adultery, indebtedness, and abuse, and tried to settle them by reprimanding the guilty ones. He sent cases involving serious injury and homicide to the district court, along with cases he was unable to resolve.

The district court was a most efficient and effective judicial organ, and the nature of the Mossi judicial process was most evident on this level. The

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district court did not deal with all cases referred to it. Many cases, especially those concerning the behavior of women, were referred back to the village to be resolved by the respective lineages. The district chief considered it beneath his dignity to deal with such cases, and his guards ostentatiously chased away the litigants. He consented to try such cases only when he suspected that more serious trouble would develop if he did not. Theoretically, district courts could not try cases involving the death penalty, but in practice most of them did. Higher chiefs tolerated this as long as district chiefs did not abuse their usurpation of power.[4]

When a major crime was committed in a district, the case was usually sent immediately to the district court. The chief of the village where the crime had been committed sent one of his relatives with the accused or with the litigants to the district chief's compound, and dispatched another relative to notify the village administrator. The administrator either went to the district court to await the litigants, or sent his representative to meet the court-bound party on the way and question them about the case. Such parties were often very large, because the Mossi believed that a man should not go to court alone. They felt that the criminal act of a relative reflected on all of them, and that it was important for them to appear with him. To quote a Mossi proverb, "A chicken without its feathers is a very small bird indeed." Therefore, no matter how grievous his crime might be, the accused was accompanied to court by his relatives. If his own lineage members refused to do so, his mother's patrilineage was duty-bound to come to his aid. These relatives believed that they would incur ancestral wrath if they refused to help him.

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As soon as the accused or the litigants arrived at the district chief's compound, a page notified him that the people of such-and-such a village had brought him a case. If it was after dark, the chief told his police to take charge of the litigants until morning; otherwise he prepared to convene the court. When the chief was ready, the page reappeared and alerted the court party, who had been milling about in the courtyard under the watchful eyes of the chief's guards. They ranged themselves at a respectful distance on either side of the chief's chair. When he appeared they arose, and when he sat down they knelt and offered the customary salutation. The litigants and their relatives then gave the chief the customary kola nuts, cowries, and chickens.[5] He, in turn, acknowledged the gifts and inquired about the case. The relatives of the village chief who had accompanied the litigants reported what had allegedly happened; what action, if any, had been taken by the village court; and why the case had been brought to the district court (either because the crime was too serious to be judged on the village level,

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692 634 695 or because the litigants had rejected the village chief's verdict). The chief then asked the plaintiff or "the people of X village" to state their case. Someone usually spoke up, and after he had finished, the chief asked the defendant or defendants to do likewise. The litigants were then asked to produce reputable witnesses to support or refute the testimony.

[641] [562] [567] Witnesses had to be male, adult (to have begun to "push a beard"), and free. Women and bondsmen had no legal personality before a Mossi court. A slave was represented at court by his master, and a woman by her husband (and, by extension, by his patrilineage). In marital quarrels or property suits, a woman was usually represented by her patrilineage. Only if [576] she alone could give the required evidence was she allowed in court. When she was asked to testify, she knelt, and spoke in a high, thin, soft voice, thus showing extreme respect to the chief and proper deference to the court. Except for these restrictions, any person could be called in as a witness. [578] Tempers often ran fairly high among the litigants' relatives and friends while they gave their testimony and argued the case, but their physical separation and their respect for the chief prevented abuse and fighting. Anyone who started a fight in court was liable to a beating by the samandekamba.

[674] The Mossi believed that most people, given sufficient reason, would commit any crime. Thus they examined the litigants carefully and at great length in an attempt to "get behind" the offense. The district chief interrogated the litigants, but the dignity of the court prevented him from arguing with them. As a matter of fact, most of the cross-examination was done by the litigants themselves. From time to time, the village administrator and the chief's confidants asked brief, direct questions. When a woman was involved, the chief's Pughtiema usually listened to the proceedings from behind a wall and questioned her. When all the evidence was in, the chief either rendered his verdict without delay or retired to the zongo to confer with his confidants and the village administrator. He took the latter course whenever he felt that further discussion was necessary or that false testimony was confusing the issue. Not until he felt that he had the facts well in hand did he return to the court to render his verdict.

The Mossi did not use ordeals in court except in the "chastity trials" conducted by the Pwe Naba. Some litigants called upon the ancestors to kill them if they were not telling the truth; others went to earth shrines and drank an infusion of dust to show that they were not afraid of the spirits who wrought vengeance on the guilty. However, such acts were never carried out in court and thus were of no use to the chief.

The following case, tried in a district court in 1956, illustrates the Mossi

The following case, tried in a district court in 1956, illustrates the Mossi' 691 685 634

concept of justice. To reach the central market, the people of Donse village used a path that ran across the fields belonging to two of their fellow villagers, Zami and Isa. The path was normally open all year round, even during the planting season, because neither man wished to inconvenience the villagers. But one day the two men quarreled, and shortly thereafter Isa announced his decision to close his path during the planting season. He said he feared that "people would steal his growing crops" if he left it open. Moreover, he wanted to use the path to increase his planting area. Zami objected to what he considered an insult, and, believing that Isa had violated a customary rule, used the path. In doing so, he crushed several stalks of millet. Isa witnessed his action, and the men came to blows. When the village chief proved unable to reconcile them, they were brought before the district court.

The district chief ruled that according to Mossi custom, a man could close a path during the planting season to prevent people from stealing his crops. But if he closed a path, he had to provide an alternative route, for no one had the right to restrict the movements of others. The chief sympathized with Isa over the small size of his field, but insisted that he provide a path across or around it. However, he persuaded Zami to let Isa use a portion of his land in compensation for the new path. 695 691 685 634

The chief tried to reconcile the interests of Isa and Zami with those of the entire village. He apparently felt that reconciliation was more useful than judgment. He did uphold the law that the right of passage is mandatory, but also maintained that a man has the right to protect his property from potential thieves. At the same time, he made it clear that although a man may defend his own rights, he may not do so by infringing upon the rights of others.

The same principles seem to have been upheld in the following case, also recorded in 1956, which is interesting because it illustrates the flexibility of Mossi law. A man named Hammadou died, leaving fifteen cows as his legacy. Moussa, his eldest son and principal heir, distributed the cows among his father's other sons and male relatives, but did not give any to his father's daughter. Strictly speaking, he was right to exclude her, because a woman was not supposed to inherit any of her father's property unless he had no living lineal or collateral relatives. In practice, however, a daughter always received part of her father's legacy, especially if he had been wealthy. Hammadou's daughter therefore felt slighted, and when she received no redress from Moussa or her other male relatives, she had the case taken to the village chief. He could not resolve it, and referred it to the district chief. 691 428 [562] [692]

When Moussa was called before the district chief, he explained that his [634]

father had given the woman a silver bracelet before he died, and that the babissi felt that this was sufficient, since she had a husband to provide for her. Furthermore, Moussa said that the inheritance had already been distributed, and that any redistribution would impose a hardship on all concerned.

Interpreting the inheritance law according to common practice, the chief ruled that the milk from a man's cattle was for *all* his children, regardless of sex, and that the fact that the father had formerly given the daughter a bracelet should not have influenced the distribution of the inheritance. The chief stated that the woman should receive at least one cow, and that if the defendant did not agree, he (the chief) would recall all the animals and supervise their distribution. He did not feel that he had to state the principles by which he had reached his judgment, for the consensus among the people of the district was that the heir was trying to take advantage of the law for his own selfish interests. Rather than appeal to Ouagadougou, Moussa and his babissi accepted the verdict.

On the basis of these and other cases, we are led to the conclusion that the Mossi felt that law and the judicial process should serve to reconcile people and to maintain what was commonly considered to be social justice.

Most of the cases at the district court were tried in the same manner as those cited above. Cases involving relations between men and women were the most common. This is paradoxical, because the district chief tried to avoid any involvement with such cases. For every domestic case tried by the district chief, five others were sent back to the village or lineage level. Even so, it is estimated that about 80 per cent of the cases tried by Mossi district chiefs ultimately concerned women. The most common case of this type was the alleged refusal of a woman to return to her husband.[8] If the judge found that another man had encouraged her to leave her husband, he ordered her to return to him and warned her and the man about the possibility of serious difficulty with her husband's relatives. On the other hand, if the chief found that the woman had left a cruel husband who threatened to harm her or her relatives, he warned the husband not to carry out his threats. The Mossi had no bride price; thus, a woman's family was not faced with the problem of restitution. Sometimes, an angry husband did demand that his wife's family return the gifts (*pogopossum*, "thanks for the woman") he had given them from time to time—e.g., at funerals—and they complied.

Adultery cases were next in frequency at the district court. A man convicted of adultery with another man's wife was either warned to leave her alone or fined a sheep or a goat. He was also liable to be put in stocks for

He was also liable to be put in stocks for several days, and when released he was warned against visiting the local markets, where he might be tempted to renew his illicit relations. A nobleman convicted of adultery was often merely warned or fined, since his movements could not be restricted. But if a man caught his wife and another man in *flagrante delicto* and killed them, his act was considered justifiable homicide (even if the slain man was a noble), and he went free. If, however, he killed the lover but spared his wife, he had to send her to the chief's household. Here she was made to perform hard work under the supervision of the palace guards until it was believed that she had reformed. A man who was experiencing difficulties with an unfaithful wife and feared he might eventually kill her or her paramour also sent her to the chief's compound for a few months.

The Mossi have always been great creditors and debtors, and cases concerning indebtedness seem to have been next in frequency at the district court. The chief usually dismissed cases of indebtedness brought against minors, because it was considered unseemly for adults to give credit or to loan valuable property to youths not yet of age. Thus, if the minor's family refused to make restitution, the creditor usually had no redress. However, if a woman borrowed property and refused to return it, her husband's lineage was held responsible. Similarly, if an adult male borrowed anything and refused to return it or to do so on time, the case was taken to the local court and eventually to the district court. The creditor was asked to supply witnesses to the loan, and if the chief was satisfied that the loan had been made under the conditions specified, the debtor was ordered to make restitution. If the debtor claimed bankruptcy, the chief ordered that his goods be seized and sold, and that restitution be made to the creditor. If the debtor was truly destitute, his relatives were compelled to pay his debts. The collective responsibility of the babissi for the debts of its members was seen most clearly in cases where men died in a state of indebtedness. The creditors were allowed to summon the debtor's babissi to court, and if proof of the debt was established, the relatives were compelled to repay. If they failed to do so, the chief's police seized and sold their goods to repay the debt.

Cases dealing with violations of civil contracts were somewhat similar. The Mossi did not believe in the axiom *caveat emptor*. If a man sold an animal that died within a week for no apparent reason, the chief ordered an investigation. If it was found that the animal had been ill when sold, the chief ordered that the buyer be reimbursed. If the investigation showed that the animal had been healthy when sold, no restitution was made. Similarly, if a man borrowed an ass or an ox to transport goods and the animal

died while he was using it, the owner could not press any claims. However, the borrower was obliged to sell the animal's flesh and give the money to the owner along with the animal's skin as proof of its death. Under no circumstances would a district chief absolve a man from paying the market value of an animal if he failed to return the skin. Such failure would brand him as a thief and involve an additional fine.

The Mossi considered theft a major crime. A thief could be killed with impunity if he was caught in the act and in the presence of several witnesses. If these conditions were not met but the man killed was known to have been a thief, the killer was fined several cows. But if he was known to have been a man of good character, the killer ran the risk of being executed. In this way, the Mossi tried to prevent any abuse of an accepted practice. The theft of grain and other foodstuffs was considered especially reprehensible, because it was held to indicate that the thief was so depraved that he would not even grow his own food. During the rule of Naba Kaglere of Nobere district (1888–1906), a man called Yahiya left his own village of Donse and went to a village called Quitenga to steal sweet potatoes. The people of that village caught him in the act and shot him with a poisoned arrow as he made his escape. Yahiya died without revealing the source of his wound, and his babissi, suspecting foul play, asked Kaglere to investigate. When the Quitenga people learned of the investigation, they went forward voluntarily and reported the circumstances under which they had wounded Yahiya. Kaglere absolved them of all guilt and told the Donse people that Yahiya had deserved to die, not only because he had stolen food (which he might have received if he had asked for it), but because sweet potatoes were the easiest vegetable to cultivate.

A thief who was too clever to be caught in the act but who was apprehended afterwards was treated quite harshly by the Mossi court. Here, the penalty of double indemnity was often applied. A man who was brought to court for stealing a chicken or guinea hen was fined a goat or a sheep. Hence the Mossi proverb "Zou noaga ronda bouga"—"He who steals a chicken repays a goat." The thief who stole one cow had to return several. If a thief could not pay the fine, he was placed in stocks until his relatives paid for him. If they refused to do so, the chief's retainers seized their property, sold it, and made restitution. This often compelled the family of a recidivous thief to make him commit suicide. If the family would not resort to this, the district chief had the man seized and clubbed to death.[7] Sometimes the chief sent recidivists to the Mogho Naba, who sent them to a village called Teemetenga to be made into eunuchs.[8]

The Mossi seem to have made a distinction between theft and pillage—

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a practice whereby nobles deprived commoners of their property. Those nobles who lived among commoners quite often confiscated their neighbors' property. But this was not regarded as theft and was not punishable as such, although a rapacious nobleman could be sanctioned for terrorizing and "spoiling" a village. If a nobleman was caught performing an act that *was* considered theft, or if he was accused and found guilty of theft, he was severely punished. During Kaglere's reign, the people of a small village suffered a series of livestock thefts. One day, while the friends of a village chief were sitting with him, a dog came out of the chief's compound dragging an animal skin. The men recognized the skin as that described for a stolen goat, and decided to investigate. In the chief's courtyard they discovered the hole from which the dog had unearthed the skin. They also found the skins of several other stolen animals. The villagers took the village chief to the district chief, who found him guilty and exiled him from the region. In passing judgment, the district chief told him that he had been elected "to care for the village," but that he had betrayed his trust by robbing his own people.

According to Mossi law, willful homicide or murder was punishable by execution. The Mossi did not use wergild or "blood money," but insisted on the *lex talionis*, which they interpreted as "a life for a life." They did not believe that money or any other valuables could compensate for the life of a man, nor would they allow a slave to be executed in place of the murderer. They believed that only by executing the murderer himself could they prevent his victim's relatives from resorting to vengeance and thus "spoiling" the district or village.

A man who grievously wounded another was apprehended, bound, and taken to the village chief and subsequently to the district chief. Here he was kept in stocks in the serfs' quarter without being tried until his victim either died or recovered. If his victim recovered and the judge found that the wound had been inflicted accidentally, the defendant was fined or had his goods confiscated, but he was released. If the judge found that the victim had been wounded in a fair fight, the prisoner was usually censured and dismissed. The chief often warned the wounded man that he ought to have lived up to the Mossi axiom that a grown man is always able to protect himself. If, however, the trial revealed that the prisoner had ambushed his victim with the intent to kill, he either was fined several cows or had his entire property confiscated. District chiefs are known to have executed the perpetrators of cowardly ambushes even though their victims recovered.

If a man died at the hands of another, an inquest was held immediately. If the killing had been accidental or committed in self-defense, or if it was

time safeguarding his position within the district and toward the Mogho Naba. For, as already pointed out, the district chief who failed to protect his subjects as well as to rule them was deposed and executed by the sovereign.

The promptness with which the lower courts dealt with litigations left little time for pre-trial bribery, and there is general agreement that the traditional courts were just. Of course, some lower chiefs were known to have been unfair and to have taken bribes. However, they were always in danger of having their verdicts appealed to Ouagadougou.

The Mossi believed in and acted on the dictum that "the truth is at Ouagadougou." They were convinced that they could obtain justice from the Mogho Naba if from no other chief. If a man was not satisfied with the ruling of a lower chief, he was free in theory to seek a higher verdict, and this influenced the kind of justice rendered on the lower level. As a rule, however, the district chiefs did not favor appeals to Ouagadougou. They felt, like most Mossi, that the less their superiors knew about their activities, the better. Thus, the district chief used all of his influence to prevent cases from being appealed to the capital. Some district chiefs were not above coercing litigants into such abstention. They even threatened them with reprisals if the verdict should be unfavorable. But the greatest deterrent against such appeals was the expenditure of time and money. The docket of the Mogho Naba's court was always crowded, and the suitors often had to remain at the capital for as long as three months before they were given a hearing.[9] During this period they often spent more money than the action was worth. Marc states that the word "Ouagadougou" means "the place where one becomes thin," a reference to the amount of money litigants had to spend while waiting for their cases to be heard.[10]

When the object of a lawsuit was the inheritance of cattle, the litigants sustained a double loss. As soon as they asked that the case be taken to the capital, the district chief impounded the cattle. While the case was pending he appropriated the cows' milk, and when the case was settled both he and the Mogho Naba received some animals. Thus, suitors were usually under a great deal of pressure to resolve their problems on the district level. However, if they were determined to go to the capital, they were permitted to do so.

The district chief always sent one of his retainers to the capital with the litigants. The group went directly to the district's provincial minister, who was empowered to hear the appeal and decide whether it should be brought before the Mogho Naba or returned to the district court. If he decided to send it to the Mogho Naba, he placed it on the docket and told the

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litigants when it would be heard. On the day set he took his charges to court, where they waited in the company of the litigants from other districts and from the wards of the capital itself.

The procedure of the Mogho Naba's court differed little from that of the district chief's court. When called upon, the litigant stated his case, called witnesses, and underwent cross-examination by his opponents and by ministers of the Mogho Naba. The litigants were not allowed to look at the Mogho Naba while they spoke, but had to kneel forward on the ground with their faces turned away from him. The Mogho Naba himself seldom looked at the litigants and rarely questioned them. When presented with a complex case, the Mogho Naba, like the district chief, retired with his councillors and canvassed their opinion in order "to ascertain whether or not their verdicts were similar to his own." Nevertheless, he could not follow their advice. He had to make up his own mind, and when he returned to court he rendered his verdict, which could not be appealed. If those who received an unfavorable verdict showed any displeasure, they were taken outside by the palace guards and executed.

The penalties imposed by the Ouagadougou court were usually more severe than those handed down at the district level. The main reason for this was that aside from cases involving residents of Ouagadougou, the lawsuits tried by the Mogho Naba were serious ones and often had been sent to him on appeal. Moreover, the Mogho Naba's court was alone empowered to impose the death penalty within the kingdom of Ouagadougou. It should be noted here once more that district chiefs often executed criminals. But it should also be reiterated that the Mogho Naba never surrendered his prerogative to the district chiefs. They simply usurped it, and if they used it judiciously they were not penalized.

Those nobles and commoners who were convicted for serious crimes at the monarch's court were killed by the royal executioners. Moreover, in contrast to the procedure at the district court, the criminal's property was often seized before his execution. The reason for this is not clear, but it was probably related to the lack of a personal relationship between the court and the relatives of the accused, which enabled the Mogho Naba to impose a harsher penalty. The district chief, it must be remembered, lived in close association with his people and was influenced in his behavior by social relationships. Interestingly enough, the Mogho Naba did not keep the goods seized, but allowed them to be distributed among his executioners.

Crimes against the person or office of the Mogho Naba were punished with greater severity than crimes against the district chief. Any man who was seen speaking to one of the ruler's wives and who did not happen to

be related to her was tried and executed. In some cases, he was put to death without a trial. Adultery with a royal wife was considered so reprehensible that both adulterers were publicly beaten to death. Their bodies were denied burial and were thrown into the bush to be eaten by vultures. The Dapore Naba and the Baglere Naba seized and retained the man's property.

Men who committed treason against the Mogho Naba were usually killed before they could be tried. Chiefs and nobles who were suspected of treason and who consented to come to Ouagadougou for trial were deposed and executed if found guilty. Those who were found innocent were released and sent back to their chiefly duties. The sole exception on record to this general rule was the case of Naba Yemde, a Dim of Boulsa province. He had fought and defeated the forces of Mogho Naba Sanum, and when the Mogho Naba sent a larger army and routed him, he was treacherously delivered to the monarch by another Dim. Sanum found Yemde innocent of treason, but had him executed because he had violated another rule: as the descendant of a Kourita, he had come face to face with the Mogho Naba, thus jeopardizing the monarch's life. This exception is always cited by the Mossi when the inevitability of execution for treason is brought up. Actually, a person accused of treason rarely went to court. He either took poison or died in battle against the royal forces. As a posthumous punishment, his compound was burned, his property seized, and his relatives and servants sold into slavery outside the country. Thus, the supreme penalty was not merely the death of a traitor but the permanent banishment of his entire lineage.

because of this delinquency, the Mogho Naba might hesitate to come to the aid of any of his vassals if a general war broke out. It is true that the Mogho Naba did not aid the Yatenga ruler when the French arrived. But whether this was because of his failure to pay taxes, or because the French conquest of the Yatenga coincided with a civil war there, we shall probably never know. We do know that many of the Mogho Naba's vassals came to his aid when the French finally arrived at Ouagadougou. It is my opinion that the gifts exchanged between Yatenga and Ouagadougou were not "tributary," but were more in the nature of tokens of friendship between two peers.

The Mogho Naba and his provincial ministers also received revenue as a function of their judicial roles. The nature and disposition of the fines levied against legal offenders were discussed in Chapter V. The Mogho Naba's fees came in the form of the traditional gifts the litigants gave him even before their cases were tried. These gifts were never regarded as bribes, for this would have contradicted the Mossi axiom that "the truth is at Ouagadougou."

The Mogho Naba inherited all the property of the Kamsaogho Naba, and claimed all the property of district chiefs who died without close relatives. He also received inheritance taxes (fado) from the estates of deceased district chiefs. In collecting the fado, the Mogho Naba first retained the horse on which the messenger came to announce the chief's death. He reciprocated by sending envoys with cowries and animals to be offered to their common ancestors at the chief's funeral. After the funeral, the envoys claimed the dead chief's quiver of arrows to take to Ouagadougou for deposit with those of other dead chiefs. Then they demanded the fado, and jestingly told the heirs that the Mogho Naba would be satisfied with nothing less than "a thousand of everything" (*tusri bumbu fa*) the deceased had possessed: wives, slaves, horses, cows, goats, chickens, articles of clothing, and so on. The heirs pleaded poverty and jokingly gave the envoys a few old and sickly animals, old chickens, tattered pieces of clothing, etc. Eventually, they handed out the fado, which usually consisted of livestock, clothing, food, weapons, jewelry, cowries, and even slaves. Lastly, they gave the envoys the chief's ceremonial horse and presents for themselves.

The Mogho Naba and his ministers collected a considerable amount of revenue from the traders who visited Ouagadougou and the larger market towns and village markets throughout the kingdom.[8] The Mossi (especially the assimilated Yarse) were good traders, and they benefited from their country's strategic location between the Sahara and the forest regions. According to Barth, some six caravan routes crossed the country, linking

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creased his force" and ultimately added to his income. Men who had been compelled to flee from other districts because of crimes or power struggles were granted refuge and given pughsiudse. In this manner, the district chief, like the Mogho Naba, established seignorial rights over his new subjects, incorporated them into the district, and obtained goods and services from them. The better a district chief's reputation, the greater the number of refugees who sought shelter with him and added to his wealth. Conversely, a chief who was known for his injustice, his rascality, and his excessive demands from persons seeking the village nam was shunned by potential subjects and might even be deserted by his own.

Those persons who visited the district chief's compound to settle court cases also contributed to his revenue. When the case dealt with cattle or other livestock, the chief received a few animals. In other cases, he received only the customary gifts from the litigants. He also received gifts from all the families in his district several times a year. One occasion was the "Tense," a festival in honor of the mother of Mogho Naba Oubri, the founder of the Ouagadougou dynasty; the other was the Basgha. During these two ceremonies every village chief, preceded by his district administrator and followed by his subjects, paid homage to the district chief and gave him presents. The district chief retained part of what he received for the upkeep of his household and to fulfill such obligations as hospitality to travelers, and added the remainder to his own annual tribute to the Mogho Naba.

The manner in which the district chief collected his annual tax or tribute for the Mogho Naba is the subject of controversy. Several of my respondents declared that the collection of this tribute was rather informal. The district chief allegedly notified the village chiefs that he wished to give a present to the Mogho Naba, and these chiefs sent word to the family heads, who, in turn, notified every household. The village people then collected chickens and livestock, baskets of grain, and cowries, and sent them up through the hierarchy to the district chief. The district chief's retainers checked the gifts from each village very carefully, and if some villages gave less than was expected of them, the district chief summoned their chiefs for explanations. In most cases the district chief knew exactly how much could be expected of his subjects, because his informers—usually his own pages and courtyard servants, or messengers of the local administrators—kept him informed of the wealth of each hamlet. Usually, a village chief who had withheld too much from the commodities turned over to him, or who had not demanded sufficient goods from his villagers, sought to make amends. It was in his interest to do so, since it was always dangerous to incur the

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tions. Binger, who found Boukary Koutou (the future Mogho Naba Wobogo) living in exile for having led a rebellion against his brother, Mogho Naba Sanum, tells us:

> Boukary has no resources, and does not even have the advantage of receiving periodic tribute from several large villages. In order to subsist and to maintain a certain status, he is compelled to live by pillage and even by brigandage. From time to time, his horsemen make incursions into the outskirts of some Gurunsi or Kipirsi village, and carry off by surprise the inhabitants whom they find working the fields or looking for wood. His people also hide and lie in wait along the roads to capture any persons who may pass within their range. This type of behavior has given Boukary Naba a bad reputation. However, the people who understand his position forgive him, knowing the situation in which his brother has placed him. And, in spite of all this, he has numerous partisans, and many others who would be happy to see him gain power.[28]

Those district chiefs or princes who wished to retain their power legitimately were forced to be generous or run the risk of losing the allegiance and good will of their villagers, who were their ultimate supporters.

It is very difficult to generalize about the amount of revenue collected by a village chief. He did not receive any revenue from the land used by his villagers. He treated the weogho in his village in the same manner as the district chief. If some families grew too large and wanted to establish permanent residence in the village bush, they asked the chief for permission to settle there. However, many village chiefs had special areas of waste for their own use. They had usually received them as gifts from some district chief, and therefore had the right to collect tribute on any crops, firewood, or fish obtained from these lands.

The average village chief's main source of revenue was derived from the agricultural and other labor of his wives and relatives. A village chief received a number of wives from his subjects and from aliens living in his village. These women helped cultivate his fields. If their labor was insufficient he called a sosogha, to which he often invited his wives' relatives. Some chiefs also had serfs and slaves who helped cultivate their land and kept their cattle as well.

The village chief did not have the power to tax his subjects. Instead, he functioned as a channel through which commodities and services passed up the hierarchy and on to Ouagadougou. Many villagers voluntarily helped the chief to repair his huts and compound walls and to cut thatch for his roofs. Many gave him baskets of grain and other vegetable products after the harvest. They also visited him and gave him presents during the annual rites to his ancestors. In contrast to higher chiefs, however, the village head

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did not derive any revenue from his judicial functions. He could not levy a fine against any malefactor. However, his intermediary position between the villagers and the district chief did permit him to obtain some revenue whenever commodities moved from one level to the other.

The officials who administered the villages for the district chief received part of their revenue from the villages under their charge. These local administrators had no courts or retainers comparable to those at the provincial level. However, they did have a large number of wives who contributed valuable agricultural labor. These administrators were permitted to ask the village chiefs for sooose on their own fields several times during the planting season, but—unlike the district chiefs—they were not permitted to have the villagers cultivate special fields for them. In return for any help received, they had to provide food and drink for the workers.

The administrator received most of his revenue as a by-product of active duty in the villages. When he visited a village or transmitted a message to a village chief, he almost invariably received a sheep, a goat, a chicken, or some millet, from the village chief. He also acquired large quantities of goods during the village interregnum: he received gifts from the chief's heirs during the chief's funeral; he received additional presents when they took the fado to the district chief; he could prolong the interregnum in order to receive as many bribes as possible from contenders for the nam; and he was handsomely rewarded when the candidate he had backed was finally installed in office.

The extended family was the basic socio-economic unit supporting the Mossi political organization. The Yirisoba received land rights in his saka from his Sakakasma, who had obtained his rights from the village chief. An extended family in need of additional land would seek help from its Sakakasma or its Boodkasma. When the family no longer needed this land, it reverted to the lineage. If all the land granted to the lineage was already occupied, the extended family, through its lineage head, asked the village chief for more land. The chief usually granted this request, unless he had no more weogho available. In this case, the needy Yirisoba sometimes tried to borrow land from his non-kin neighbors. Such a step was not undertaken lightly, however. If a man borrowed land from his own lineage members or from the chief, the land rights reverted to its donors without difficulty. However, if he borrowed land from another lineage and either he or his benefactor died without assuring the return of the land, litigation often ensued. In some cases a man would seek land from his lineage brothers in another village, who let him use some of their land with their chief's permission. Some Yirisobadamba even asked their district chief for

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monial activities, especially since they were considered interesting "feudal" anachronisms to be shown to visiting officials and travelers. He also retained the power to appoint district chiefs, but the French often vetoed men they disliked and suggested that other candidates be elected. He also lost all control over his provincial administrators. The administrative chain now extended from the cercle commanders, through the provincial ministers and district chiefs, down to the village chiefs. Many provincial ministers, out of loyalty to the traditional system, occasionally briefed the Mogho Naba on the policies the French had ordered them to carry out, and told him about the state of affairs in the districts. This was completely unofficial if not illegal, but it made little difference to the French.

One serious blow to the power of the Mossi chiefs, especially on the district level, was their loss of judicial autonomy. Mossi country was subjected to the Indigénat, a rather harsh code of law for new colonies, which was promulgated by a decree of September 1887. Under this code, administrators could hold summary trials and punish any Moaga, whether chief or commoner. In June 1905, the Mossi chiefs regained some of their judicial power when a supplementary decree established village, district, and cercle courts throughout Haut-Sénégal et Niger.[10] Mossi village chiefs regained their police powers and the right to reconcile disputes among their people, but their decisions could be appealed to a district court. The district chief heard appeals and judged civil and criminal cases, but in all deliberations he was aided by two assessors appointed by the Governor. His judgment could be appealed to a cercle court, which was presided over by a European, who was assisted by two Africans. They heard appeals and judged crimes for which the penalty could be no more than five years. Penalties handed down by this court could be appealed to the Supreme Court of the Federation of French West Africa in Dakar, which judged all major crimes.

Thus the Mossi chiefs did regain part of their judicial power; but because the decree of 1905 did not abolish the Indigénat, local French administrators could easily countermand this power. Moreover, some administrators, dissatisfied with the Mossi courts and possibly resentful at their own loss of judicial power, sent numerous complaints to Dakar about the incompetence of the chiefs and the injustices perpetrated by village and district courts. As a result, a decree of August 1912 abolished the judicial power of the Mossi and of all other African chiefs, and instructed them to refer all litigation to courts at the poste, subdivision, and cercle levels.[11]

During the period before the First World War, the Mossi chiefs lost not only their judicial power but also much of the economic and religious basis of their political power. The French administration abolished slavery

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administration, and failed to serve as an administrative training ground for either the Mossi ministers or the commoner representatives."[88]

During the Hesling period, the Mossi district chiefs remained in power, but the French, through their African administrative assistants, kept a stricter watch on district affairs. The chiefs regained some of their judicial (or, rather, conciliatory) power in 1921 when the Governor, dissatisfied with the territory's legal system, promulgated a decree reorganizing the courts and giving the Mossi district and village chiefs the right of adjudication in minor cases involving civil and commercial matters.[89] However, they had to send all cases involving serious crimes and all appeals from other cases to higher courts. Because their subjects could appeal to the subdivision courts and because they risked reprimand by administrators when their verdicts were deemed unjust, many Mossi chiefs complied. They tried to do so even when the litigants themselves would have preferred not to deal with the administrators. Often the chiefs overtly told the litigants to go to the administrators but covertly persuaded them not to do so. In this manner they observed all proprieties toward both the French and their subjects.

The village and district courts had to send all criminal offenses such as assault and battery cases and major thefts, as well as appeals against their verdicts, to a "tribunal of the first degree," which was presided over by a subdivision commander and his Mossi assessors. Cases were taken to the tribunal only when the dispute was extremely serious or when people were gravely injured, because Mossi villagers hesitated to take their cases to officials who, when not swamped with work, had little patience with the complexities of Mossi litigation. Moreover, the Mossi feared to subject their fellows to the rigors of the Indigénat, which was still in existence, because, as one official source declares, "If this regime subsists, it is because the Voltaic populations have not yet reached a level of development that would permit the withdrawal of a weapon which is so readily useful to the commanders of administrative units. Besides, when judiciously managed, it does not present any danger in these underdeveloped regions."

Cases which the subdivision commanders considered too serious for their courts were sent to "tribunals of the second degree" at the cercle level. From there, cases were sent to a "colonial court of appeal," which was presided over by the Chief Officer of Political Affairs of the territory and which could sentence a criminal to three to ten years in prison. More serious crimes carrying longer prison terms or the death penalty were sent up to the Supreme Court at Dakar. Owing in part to the lack of communication between the rural districts and the higher courts, the Mossi

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were seldom able to follow a case higher than the subdivision level. In cases involving long imprisonment or the death penalty, the relatives of the condemned person usually learned about the sentence through rumors from the capital, but seldom through the administration.

One judicial duty which the administration gave the Mossi chiefs and which they had always disliked was the adjudication of domestic cases. They found such cases even more difficult and distasteful after Hesling issued a circular on "The Condition of the Native Woman," which is summarized in a semi-official report as follows:

> [The Governor] is pained to see [the Mossi woman] so often subjected to a special form of slavery which, notably at the time of marriage, reduces her to the role of a domestic animal. Without wishing to interfere with ingrained native traditions, the Governor desires "to prime the desirable evolution by means of judicial decisions." Thus he comes to the decision that in those lawsuits concerning marriage in which formerly the woman was not consulted, she must henceforth be present and must argue the case with her husband. M. Hesling trusts that this procedural reform, which he hopes will give the native woman "a consciousness of her individuality and her rights," will be followed in the courts by further reforms. First of all [the courts] must weaken and then progressively modify those traditions which promote injustice toward women. . . . Questions will no doubt be raised as to whether it is necessary to set up regulations on such matters. However, M. Hesling advises his administrators to adjust [such regulations] to, and apply them with respect for, ancestral traditions. It will be interesting to see the results obtained in this attempt, and to see whether the "moussos" [a malapropism denoting Mossi women] of the Upper Volta will acquire some individuality.[40]

The Mossi chiefs were not told that the Governor's circular recommending a change in the status of women stipulated that traditional practices be taken into account. But even if they had been told, they would not have been impressed, because any fundamental change in the status of women would have placed their whole society in jeopardy. Woman exchange stood at the core of a social, economic, and political nexus that held Mossi society together. True, in pre-conquest times most quarrels and lawsuits were caused by trouble over women, but the marriage system was upheld by all the other institutions. Even after the arrival of the French and the weakening of the chiefs' judicial role, the Mossi could punish violators of the marriage system by imposing social sanctions. They now feared that if the French passed laws giving the women free choice in marriage, and the chiefs had to adjudicate on the basis of these laws, all traditional sanctions would become obsolete. Neither the chiefs nor the Mossi on the Councils of Native Notables nor the elders welcomed any discussion about

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the status of women. They maintained that the French had conquered the Mossi men, not the women, and that the administration should not interfere with the way in which a Moaga treated his wife. Ironically enough, there was little the administration could do for the Mossi women, since the latter were too timid to approach the Europeans. Most of them continued to react to maltreatment from their husbands by running away, but now they went to the Gold Coast with labor migrants instead of returning to their lineage.

Although the Mossi chiefs had little autonomy in the administration of their subjects, and had to look to the administration for guidance in nearly everything they did, they were not completely powerless. They were the representatives of the colonial administration on the local level, and as such they could control their subjects through the differential allocation of prestations. Those Mossi who had maintained the traditional respect for the chiefs could look forward to less arduous tasks for the administration and to the avoidance of forced labor or army recruitment. Those who by their actions or attitude indicated that they had lost respect for the chiefs were penalized accordingly. Chiefs were also able to retain some control over their subjects because they were still the centers of social, economic, and political relations within their territories. They still received homage and presents from their more loyal or traditionalistic subjects, and with these goods and services they could bind other persons to themselves. Clever chiefs were able to manipulate the colonial administration and use it to enhance their traditional position so successfully that the administration and the missionaries had to take these men into account whenever they wished to establish contact with the population.

The desire of the missionaries to establish missions and schools for the purpose of converting the Mossi to Christianity presented the chiefs with a great challenge because, unlike the administration, the missionaries tried to establish direct contact with the people. The chiefs not only did not like to have Europeans living in their midst, but feared that they would lose control over their subjects who went to live near the missions. However, the chiefs could not refuse to grant the missionaries land on which to build missions and schools. They also provided labor for them, just as they did for the construction of administrative buildings and roads. Similarly, the chiefs recruited children for the mission schools in the same spirit as they recruited students for the schools of the administration. The difference between the Catholic missionaries and the administration with respect to education was that while the former were interested in educating the children of chiefs, they were also interested in children from other backgrounds. Nevertheless, the majority of chiefs continued to send to school

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ity in local matters, even though the Indigénat had been abolished. They adjudicated minor offenses committed in their territories or referred to them on appeal by the districts and villages. They attempted to settle family quarrels and commercial cases, and ordered that restitution be made in cases of theft. However, they had to send any difficult case or major crime up the hierarchy until it reached the officials authorized to deal with it.

The French administrators also continued to act as intermediaries between the large commercial enterprises in Ouagadougou who wished to recruit men for labor or to buy local produce and enterprises in the larger Mossi towns. Thus, if a private firm in Ouagadougou wanted men to work on the roads, it asked the *chef de poste* (administrator) of a region to tell the district chiefs that its representatives would come to recruit men on a certain date. If a large business was planning to canvass a certain area in order to buy shea nuts, it asked the local administrators to notify the chiefs. No one was ever quite certain whether these activities were legal, but no one questioned them. The *chefs de poste* might simply have been giving the people information that they could not have obtained by any other means.

The Mogho Naba of Ouagadougou, like the supreme chiefs of the other Mossi regions, continued to perform both the administrative role assigned to him by the colonial government and his traditional politico-ceremonial role. He was partly responsible, through his active cooperation with the administration, for the rapidity with which the Upper Volta became a functioning entity. For example, in his anxiety to make his capital worthy of being the territory's administrative center, he gave his full support to the extension of the Abidjan–Bobo-Dioulasso railroad to Ouagadougou. But he always succeeded in giving the impression (to foreigners at least) of detachment and dissociation from the French administration. His behavior was quite different when he functioned as Mogho Naba of the Ouagadougou Mossi. The following is a brief description of a visit he made to one of the districts:

> The Mogho Naba arrived unexpectedly at the district chief's headquarters, where no preparations had been made for his visit. It appears that he was on a tour of his domains to consult with the local chiefs about the forthcoming elections, and had simply dropped in to visit the district chief. However, as soon as his presence became known around the district, important village chiefs and the heads of lineages all put on their robes and appeared to pay homage to him. Meanwhile, he was consulting with his host. But as soon as the conversation was over he came out into the compound, where he was saluted by the chief's Bendere, who praised the royal ancestors by reciting

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their genealogies and traditions. The Mogho Naba was pleased by the recitation and thanked the drummer.

Later that day, the Mogho Naba presented himself in the courtyard of the district chief's compound to be saluted by the village chiefs and by the heads of lineages. They came to him in the traditional way, rubbing their palms and bending their foreheads to the ground. He addressed them, and in response they snapped their fingers in the customary manner. Then, one by one, the village chiefs and the lineage elders came to their monarch and gave him presents of money which ranged from 50 to 200 francs. The Mogho Naba paid little attention to the sums given, being more interested in this act of homage and fealty. However, he listened carefully as each donor announced his name and rank within the official hierarchy or village. He later thanked them collectively and departed. This ceremony, while not very elaborate, differed little in detail from those characteristic of the traditional Mossi's relationship to their Mogho Naba. The new element here was that the monarch was traveling around his domain, establishing a close relationship with his chiefs and subjects, whose support he needed for his modern political alliances.[28]

The Mogho Naba continued to hold the morning ceremony at court, even though it was rapidly losing its traditional function and becoming of major interest only to visitors. He also continued to hold those ceremonies associated with individual appointments to the nam and with traditional sacrifices. Unknown to many was the fact that traditional authorities at court still judged legal cases which many Mossi refused to take to the Europeans.

In contrast to the Mogho Naba, the traditional provincial ministers now lost most of the power they had held in the pre-conquest period, and all the duties they had acquired in the immediate post-conquest era. As we have seen, one minister, the Baloum Naba, had entered politics at the suggestion of the Mogho Naba, but even he was now relegated to the entourage that accompanied the Mogho Naba and the European administrators on visits to the ministers' former provinces. The increased number of European administrators had made these ministers superfluous.

The district chiefs retained some prestige after the war. They could still judge legal cases, with the understanding that the litigants were free to go to the Europeans if they so desired and had to be sent there in serious cases. Their major problem was that a more efficient administration was taking greater interest in district affairs. For the first time since the conquest, officials were visiting some of the more remote villages. No longer were they said to "act as locusts"—that is, to appear periodically to garner supplies and men from the districts and then disappear until the next onslaught. Instead, they appeared regularly to collect taxes and to take censuses, and